

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HAROL LAM JORDAN,

No. C 06-03626 SBA (PR)

Petitioner,

**ORDER LIFTING STAY AND  
REOPENING ACTION**

v.

JIMMY WALKER, Warden,

Respondent.

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court ordered Respondent to show cause why the petition should not be granted. Respondent has filed an answer, and Petitioner has filed a traverse.

In an Order dated September 30, 2008, the Court granted Petitioner's motion to stay habeas proceeding pending exhaustion of a claim relating to DNA testing, especially upon finding that he had "shown good cause for his failure to exhaust his claim based on the evidence or absence of DNA testing of that evidence before filing the federal petition, and the claim does not appear patently meritless." (Sept. 30, 2008 Order at 2 (citing Rhines v. Webber, 544 U.S. 269, 277-78 (2005).) The Court also stated:

Nothing further will take place in this action until Petitioner receives a final decision from the highest state court and, within **thirty (30) days** of doing so, moves to reopen the action, lift the Court's stay and amend the stayed petition to add the newly-exhausted claim.

(Sept. 30, 2008 Order at 3.)

On February 17, 2010, Petitioner informed the Court that his state proceedings had concluded; however, he did not amend the stayed petition to add the newly-exhausted claim. Therefore, in an Order dated March 2, 2010, the Court directed Petitioner to file an amended petition which incorporated the newly-exhausted claim he intended to raise in federal court.

On March 10, 2010, Petitioner informed the Court that he had no newly-exhausted claims to raise in federal court because the California Supreme Court "denied [his] motion to proceed with

1 DNA testing." (Pet'r Letter at 1.) Therefore, he states that he "wish[es] to continue [his] habeas  
2 corpus as is."

3 Before the Court are Petitioner's motion to lift the stay and his implied motion for the Court  
4 to consider the merits of his original habeas petition.

5 Good cause appearing, Petitioner's motion to lift the stay (docket no. 44) and his motion for  
6 the Court to consider the merits of his original habeas petition are GRANTED.

7 The Clerk of the Court shall REOPEN this case. The petition is deemed submitted on the  
8 papers. The Court will review the merits of the petition in a separate written Order.

9 This Order terminates Docket no. 44.

10 IT IS SO ORDERED.

11 DATED: 3/16/10

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

United States District Court  
For the Northern District of California

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JORDAN et al,

5 Plaintiff,

6 v.

7 WALKER et al,

8 Defendant.

Case Number: CV06-03626 SBA

**CERTIFICATE OF SERVICE**

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

11 That on March 17, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

15 Harol Lam Jordan  
16 Salinas Valley State Prison  
17 Prisoner Id V-42322  
18 P.O. Box 1050  
19 Soledad, CA 93960

20 Dated: March 17, 2010

21 Richard W. Wieking, Clerk  
22 By: LISA R CLARK, Deputy Clerk  
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